UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL
E/CN.4/2001/NGO/125
13 February 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 10 of the provisional agenda

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Written statement*/ submitted by the International Centre for Human Rights and Democratic Development, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[12 January 2001]

*/ This written statement is issued, unedited, as received from the submitting non-governmental organization(s).

GE. * 2 0 0 1 0 1 1 1 8 4 *

ENG

Globalization and the Protection and Promotion of Human Rights

1. The *Vienna Declaration and Programme of Action* re-affirmed that "human rights and fundamental freedoms are the birthright of all human beings; their protection and promotion is the first responsibility of Governments." Further, the Declaration emphasized the universality, indivisibility, interdependence and interrelationship of all human rights and fundamental freedoms as they are defined by the Universal Declaration of Human Rights (UDHR).

2. The UDHR is governed by two covenants sharing the same preamble. The preamble asserts that the "ideal of human freedom can be realized only if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights."

3. The UN Charter states that one of its "purposes" is to "achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character, and in promoting and encouraging respect for human rights and fundamental freedoms for all..."

4. The Commission on Human Rights has recognized the "inextricable link between full respect for the rights contained in the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the process of development" (Res.1998/33). Similarly, the Declaration on the Right to Development states, "The Right to Development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized" (Art.1). Further the declaration assigns states with the "primary responsibility for the creation of national and international conditions favourable to the realization of the right to development" (Art. 3.1).

5. Poverty and under-development are both violations of and obstacles to the realization of human rights. The ICESCR requires that states take appropriate steps for the progressive realization of economic, social and cultural rights through the respect, protection and fulfilment of requirements under the human rights instruments. The growing gap between rich and poor both within and between nations is evidence that states have not been able or willing to fulfil their obligations under the Covenant.

6. The ability of individual states to design and implement national development strategies for the protection and fulfilment of human rights requirements has been constrained by the structural adjustment programmes imposed by international financial institutions. These programmes are characterized by lending conditionality and market reform requirements. They impose policies – deregulation, liberalization and privatization – which limit the ability of states to protect the human rights of their citizens, through provision of local incentives, social safety nets and other such mechanisms.

7. Debt burdens have imposed additional pressures on the weakest economies. Commitments by governments and financial institutions to forgive the debt of highly indebted poor countries have often been tied to sectoral privatization with ensuing market access for developed countries. The elimination of poverty and its inherent violations of economic, social and cultural rights

requires complete and unconditional debt relief for the poorest countries as well as alternatives to the present system of global financial management. Developed countries and the institutions governing the international economy have failed to address this urgent problem.

8. The international trading system as represented by the World Trade Organization (WTO) agreements, does not consider differential levels of development when it negotiates rules or when it settles disputes. Even though the objectives of the multilateral trading system include the achievement of "sustainable development" and raising "standards of living" (Preamble to the Marrakesh Agreement), the WTO agreements include no methodology for ensuring that its provisions are consistent with states obligations to promote and protect human rights, including economic, social and cultural rights.

9. Human rights are fundamental and prior to free trade itself, which is merely an instrument of basic human values. The primacy of human rights over trade liberalization is consistent with the trade regime on its own terms (Howse, Mutua, 1999).

10. The issue of systemic consistency refers to policy coherence between international institutions governing the world economy, ie. the World Bank, International Monetary Fund (IMF), World Trade Organization (WTO) and those governing human rights and development. The current lack of systemic consistency represents the greatest obstacle in the search for solutions to poverty, under-development and the violations of economic, social and cultural rights by which they are characterized. If the protection and promotion of human rights is the first responsibility of Governments, then it follows that the international body created to monitor state compliance with human rights obligations should take leadership in the struggle to address the negative impacts of globalization.

RECOMMENDATIONS

1. In their preliminary report submitted to the Sub-commission on the Promotion and Protection of Human Rights on June 15, 2000 (E/CN.4/Sub.2/2000/13), special rapporteurs Joseph Oloka-Onyango and Deepika Udagama identified the processes which comprise the phenomenon of globalization and identified their impacts on the realisation of human rights, including economic, social and cultural rights. The report builds on previous work done at the Sub-Commission on extreme poverty, structural adjustment, the right to education, income distribution and the right to food.

The Sub-Commission's capacity to expand its research and policy formulation in the area of globalization should be strengthened by the provision of additional funding and human resources specifically for this purpose. The Oloka-Onyango/Udagama report on globalization and other related reports and studies of the Sub-Commission, should be forwarded with recommendations to all members of the Commission on Human Rights (CHR) for due consideration and concrete follow-up.

2. An outstanding proposal to create a "social forum" on economic, social and cultural rights at the Sub-commission level provides another opportunity to exchange information on the relationship between economic, social and cultural rights and the process of globalization. The

Social Forum will draw from the conclusions of relevant reports submitted to the CHR by the Sub-commission, special rapporteurs and independent experts as well as from state reports to the Committee on Economic, Social and Cultural Rights. Conclusions of the Social Forum deliberations will be forwarded to the Committee and to the Working Group on the Right to Development, UN specialized agencies and other entities of the United Nations system.

Members of the Commission on Human Rights should support the creation of a Social Forum by swiftly approving its mandate and allocating adequate financial and human resources without delay.

3. An Optional Protocol to the ICESCR was originally proposed in 1990 to ensure the recognition and implementation of the rights guaranteed in the Covenant. The Protocol would provide a complaint procedure with respect to economic, social and cultural rights, thereby allowing individuals or groups to bring into focus, violations to their rights under the ICESCR. Such a Protocol would be one mechanism for citizens and communities to seek appropriate remedies to violations of rights resulting from the process of globalization.

The Commission on Human Rights should re-invigorate the discussion around the Optional Protocol and create programmes to deal with obstacles to its early adoption.

4. In September 1998, the UN General Assembly agreed to initiate a dialogue on development financing by convening a "high-level intergovernmental event" to consider national, international and systemic issues in a holistic manner. The Finance for Development conference, now scheduled to take place in early 2002, will bring together representatives of the WTO, World Bank and IMF with representatives of the UN Development Programme and the UN Committee on Trade and Development. This is an important first step towards a collaborative effort between international institutions in order to find solutions to the crisis of globalization and development.

The Finance for Development conference will address systemic issues as part of its official agenda. In order to ensure that the impacts of globalization on economic, social and cultural rights are addressed from the perspective of the human rights obligations of states, the Office of the High Commissioner should play an active and substantial role in the Finance for Development process. Specifically, her office must seek membership in the coordinating secretariat hosted by the UN Department of Economic and Social Affairs, and also participate in the formulation of draft texts and preparatory events leading up to the official conference.